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11 Shirley R. Fleming

FILED

08 FEB 27 PM 4:06

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *PM*

DEPUTY

12 **UNITED STATES DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA

13 SHIRLEY R. FLEMING,

14 Plaintiff,

15 v.

16 BRANCHFELD & ASSOCIATES

17 P.C.,

18 Defendant.

Case No.: '08 CV 0371 J BLM

COMPLAINT FOR DAMAGES

JURY TRIAL DEMANDED

20 **INTRODUCTION**

21 1. The United States Congress has found abundant evidence of the use of
22 abusive, deceptive, and unfair debt collection practices by many debt
23 collectors, and has determined that abusive debt collection practices contribute
24 to the number of personal bankruptcies, to marital instability, to the loss of
25 jobs, and to invasions of individual privacy. Congress wrote the Fair Debt
26 Collection Practices Act, 15 U.S.C. § 1692 et seq (hereinafter "FDCPA"), to
27 eliminate abusive debt collection practices by debt collectors, to insure that
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1 those debt collectors who refrain from using abusive debt collection practices
2 are not competitively disadvantaged, and to promote consistent State action to
3 protect consumers against debt collection abuses.¹

- 4 2. The California legislature has determined that the banking and credit system
5 and grantors of credit to consumers are dependent upon the collection of just
6 and owing debts and that unfair or deceptive collection practices undermine
7 the public confidence that is essential to the continued functioning of the
8 banking and credit system and sound extensions of credit to consumers. The
9 Legislature has further determined that there is a need to ensure that debt
10 collectors exercise this responsibility with fairness, honesty and due regard for
11 the debtor's rights and that debt collectors must be prohibited from engaging
12 in unfair or deceptive acts or practices.²

- 13 3. The United States Congress has found abundant evidence of the use of
14 abusive, deceptive, and unfair debt collection practices by many debt
15 collectors, and has determined that abusive debt collection practices contribute
16 to the number of personal bankruptcies, to marital instability, to the loss of
17 jobs, and to invasions of individual privacy. Congress wrote the Fair Debt
18 Collection Practices Act, 15 U.S.C. § 1692 et seq (hereinafter "FDCPA"), to
19 eliminate abusive debt collection practices by debt collectors, to insure that
20 those debt collectors who refrain from using abusive debt collection practices
21 are not competitively disadvantaged, and to promote consistent State action to
22 protect consumers against debt collection abuses.³

- 23 4. The California legislature has determined that the banking and credit system
24 and grantors of credit to consumers are dependent upon the collection of just
25 and owing debts and that unfair or deceptive collection practices undermine
26

27
28 ¹ 15 U.S.C. §§ 1692(a)-(e)

² Cal. Civ. Code §§ 1788.1 (a)-(b)

³ 15 U.S.C. §§ 1692(a)-(e)

1 the public confidence that is essential to the continued functioning of the
 2 banking and credit system and sound extensions of credit to consumers. The
 3 Legislature has further determined that there is a need to ensure that debt
 4 collectors exercise this responsibility with fairness, honesty and due regard for
 5 the debtor's rights and that debt collectors must be prohibited from engaging
 6 in unfair or deceptive acts or practices.⁴

7 5. SHIRLEY R. FLEMING, ("Plaintiff"), by Plaintiff's attorneys, brings this
 8 action to challenge the actions of BRANCHFELD & ASSOCIATES P.C.,
 9 ("Defendant"), with regard to attempts by Defendant, a debt collector, to
 10 unlawfully and abusively collect a debt allegedly owed by Plaintiff, and this
 11 conduct caused Plaintiff damages.

12 6. Unless otherwise indicated, these allegations are made on information and
 13 belief. Further, the use of any defendant's name in this Complaint includes all
 14 agents, employees, officers, members, directors, heirs, successors, assigns,
 15 principals, trustees, sureties, subrogees, representatives and insurers of that
 16 defendant named. All allegations are made on information and belief, except
 17 those allegations that pertain to the named Plaintiff(s), or to their attorneys,
 18 which are alleged on personal knowledge.

19 JURISDICTION AND VENUE

20 7. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331 and 15 U.S.C. §
 21 1692k(d), and 28 U.S.C. § 1367 for supplemental state law claims.

22 8. This action arises out of Defendant's violations of the following: the
 23 Rosenthal Fair Debt Collection Practices Act, California Civil Code §§ 1788-
 24 1788.32 (RFDCPA), the Fair Debt Collection Practices Act, 15 U.S.C. §§
 25 1692 et seq..

26 //

27
 28 ⁴ Cal. Civ. Code §§ 1788.1 (a)-(b)

1 9. Because Defendant does business within the State of California, personal
2 jurisdiction is established.

3 10. Venue is proper pursuant to 28 U.S.C. § 1391.

4 **PARTIES**

5 11. Plaintiff is a natural person who resides in the City of Fallbrook, County of
6 San Diego, State of California and is obligated or allegedly obligated to pay a
7 debt, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).

8 12. Plaintiff is a natural person from whom a debt collector sought to collect a
9 consumer debt which was due and owing or alleged to be due and owing from
10 Plaintiff, and is a "debtor" as that term is defined by California Civil Code §
11 1788.2(h).

12 13. Plaintiff is informed and believes, and thereon alleges, that Defendant is a
13 company operating from the City of Torrance, County of Los Angeles, State
14 of California.

15 14. Plaintiff is informed and believes, and thereon alleges, that Defendant is a
16 person who uses an instrumentality of interstate commerce or the mails in a
17 business the principal purpose of which is the collection of debts, or who
18 regularly collects or attempts to collect, directly or indirectly, debts owed or
19 due or asserted to be owed or due another and is therefore a "debt collector" as
20 that term is defined by 15 U.S.C. § 1692a(6).

21 15. Plaintiff is informed and believes, and thereon alleges, that Defendant, in the
22 ordinary course of business, regularly, on behalf of himself or herself or
23 others, engages in debt collection as that term is defined by California Civil
24 Code § 1788.2(b), and is therefore a "debt collector" as that term is defined by
25 California Civil Code § 1788.2(c).

26 //

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1 16. This case involves money, property or their equivalent, due or owing or
2 alleged to be due or owing from a natural person by reason of a consumer
3 credit transaction. As such, this action arises out of a "consumer debt" and
4 "consumer credit" as those terms are defined by Cal. Civ. Code § 1788.2(f).

5 **FACTUAL ALLEGATIONS**

6 17. At all times relevant, Plaintiff was an individual residing within the State of
7 California.

8 18. Plaintiff is informed and believes, and thereon alleges, that at all times
9 relevant Defendant conducted business in the State of California.

10 19. Sometime before October 11, 2007, Plaintiff allegedly incurred financial
11 obligations to Capital One that were money, property, or their equivalent,
12 which is due or owing, or alleged to be due or owing, from a natural person to
13 another person and were therefore "debt(s)" as that term is defined by
14 California Civil Code §1788.2(d), and a "consumer debt" as that term is
15 defined by California Civil Code §1788.2(f).

16 20. These financial obligations were primarily for personal, family or household
17 purposes and are therefore "debt(s)" as that term is defined by 15 U.S.C.
18 §1692a(5).

19 21. Sometime thereafter, but before October 11, 2007, Plaintiff allegedly fell
20 behind in the payments allegedly owed on the alleged debt. Plaintiff currently
21 takes no position as to whether or not this alleged debt was actually owed.

22 22. Plaintiff is informed and believes, and thereon alleges, that subsequently, but
23 before October 11, 2007, the alleged debt was assigned, placed, or otherwise
24 transferred, to Defendant for collection.

25 23. On or about October 11, 2007, Defendant sent Plaintiff a written
26 communication demanding \$2,859.79. In actuality, Plaintiff did not owe close
27 to this amount demanded, as evidenced by the fact that Defendant

28 //

1 subsequently filed a lawsuit on behalf of Capital One on the same account
2 claiming Capital One only had a legal right to recover \$1,233.94.

3 24. By demanding an amount Defendant was not legally entitled to, Defendant
4 falsely represented the legal status and amount of the alleged debt in violation
5 of 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(1), and 1692f.

6 25. Because this communication did not comply with certain provisions of the
7 FDCPA, including, but not limited to, 15 U.S.C. §§ 1692e, 1692e(2)(A),
8 1692e(1), and 1692f, this communication also violated Cal. Civ. Code §
9 1788.17.

10 26. On October 11, 2007 Plaintiff sent a letter to Defendant in which Plaintiff
11 advised Defendant that Plaintiff wished Defendant to cease further
12 communication with the Plaintiff in a manner consistent with the requirements
13 pursuant to 15 U.S.C. § 1692c(c).

14 27. On October 15, 2007, Defendant received Plaintiff's letter requesting
15 Defendant cease communicating with Plaintiff.

16 28. On October 19, 2007 Defendant telephoned Plaintiff attempting to collect on
17 the alleged debt after Plaintiff sent and Defendant received a written request to
18 cease communications associated with the collection of the alleged debt.
19 Plaintiff again, informed Defendant to cease communications.

20 29. By sending the above communication after Defendant was notified in writing
21 that Defendant was to cease further communication with the Plaintiff in a
22 manner consistent with the requirements in 15 U.S.C. § 1692c(c), Defendant
23 violated in 15 U.S.C. § 1692c(c) and 15 U.S.C. § 1692f.

24 30. Because this communication did not comply with certain provisions of the
25 FDCPA, including, but not limited to, 15 U.S.C. § 1692c(c) and 15 U.S.C. §
26 1692f, this communication also violated Cal. Civ. Code § 1788.17.

27 31. On October 26, 2007 Defendant again telephoned Plaintiff attempting to
28 collect on the alleged debt after Plaintiff sent and Defendant received a written

1 request to cease communications associated with the collection of the alleged
2 debt and Plaintiff had instructed Defendant over the telephone to cease
3 communications.

4 32. By sending the above communication after Defendant was notified in writing
5 that Defendant was to cease further communication with the Plaintiff in a
6 manner consistent with the requirements in 15 U.S.C. § 1692c(c), Defendant
7 violated in 15 U.S.C. § 1692c(c) and 15 U.S.C. § 1692f.

8 33. Because this communication did not comply with certain provisions of the
9 FDCPA, including, but not limited to, 15 U.S.C. § 1692c(c) and 15 U.S.C. §
10 1692f, this communication also violated Cal. Civ. Code § 1788.17.

11 34. On December 27, 2007, Defendant caused to be filed in Superior Court a
12 complaint for breach of contract and common counts on behalf of Capital One
13 Bank. Defendant failed to conduct any investigation into the facts of the
14 claim, as Plaintiff's last date of payment was March of 2001. With any
15 investigation, Defendant should have realized that the statute of limitations
16 had run on the account and Defendant had not legal authority to bring the
17 action.

18 35. By filing this frivolous action, Defendant used false, deceptive, or misleading
19 means in connection with the collection of the alleged debt. As such,
20 Defendant violated 15 U.S.C. § 1692e and 1692e(10), as well as Cal. Civ.
21 Code § 1788.17 et. seq.

22 36. This resulting illegal action caused Plaintiff damages.

23 **CAUSES OF ACTION CLAIMED BY PLAINTIFF**

24 **COUNT I**

25 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

26 **15 U.S.C. § 1692 ET SEQ.**

27 37. Plaintiff incorporates by reference all of the above paragraphs of this
28 Complaint as though fully stated herein.

38. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

39. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from each Defendant.

COUNT II

VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

Cal. Civ. Code §§ 1788-1788.32 (RFDCPA)

40. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

41. The foregoing acts and omissions constitute numerous and multiple violations of the RFDCPA.

42. As a result of each and every violation of the RFDCPA, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from each Defendant.

COUNT I

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 ET SEQ.

43. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

44. The foregoing acts and omissions constitute numerous and multiple violations of the FDCPA, including but not limited to each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

45. As a result of each and every violation of the FDCPA, Plaintiff is entitled to any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from each Defendant.

COUNT II

VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

Cal. Civ. Code §§ 1788-1788.32 (RFDCPA)

46. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

47. The foregoing acts and omissions constitute numerous and multiple violations of the RFDCPA.

48. As a result of each and every violation of the RFDCPA, Plaintiff is entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a); statutory damages for a knowing or willful violation in the amount up to \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from each Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant for:

FAIR DEBT COLLECTION PRACTICES ACT

- an award of statutory damages of \$1,000.00, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- an award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3).

ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

- an award of statutory damages of \$1,000.00, pursuant to Cal. Civ. Code § 1788.30(b);

//

- an award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c).

FAIR DEBT COLLECTION PRACTICES ACT

- an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) in an amount to be adduced at trial, from Defendant;
- an award of statutory damages of \$1,000.00, pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- an award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3).

ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

- an award of actual damages pursuant to California Civil Code § 1788.30(a) in an amount to be adduced at trial, from Defendant;
- an award of statutory damages of \$1,000.00, pursuant to Cal. Civ. Code § 1788.30(b);
- an award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c).

TRIAL BY JURY

49. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: February 25, 2008

Respectfully submitted,
HYDE & SWIGART

By: 

Joshua B. Swigart, Esq.
Attorney for Plaintiff

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

SHIRLEY R. FLEMING,

DEFENDANTS

BRANCHFELD & ASSOCIATES P.C.,

FILED

08 FEB 27 PM 4:06

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF

San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

Los Angeles

CLERK, U.S. DISTRICT COURT, SOUTHERN DISTRICT OF CALIFORNIA

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

BY:

DEPUTY

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Joshua B. Swigart (8BN 225557)
411 Camino Del Rio South, Ste. 301
San Diego, CA 92108
Tel: 619-233-7770

ATTORNEYS (IF KNOWN)

Unknown

'08 CV 0371 J BLM

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| | PT | DEF | | PT | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq. and the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code 1788-1788.32 (RFDCPA)

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prisoner Conditions			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$ 75000

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE 02/25/2008

SIGNATURE OF ATTORNEY OF RECORD

148145 sel \$350 2/27/08

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**UNITED STATES
DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION**

**# 148145 - SH
* * C O P Y * *
February 27, 2008
16:15:37**

Civ Fil Non-Pris

USAO #.: 08CV0371
Judge..: NAPOLEON A JONES, JR
Amount.: \$350.00 CK
Check#.: BC2311

Total-> \$350.00

FROM: FLEMING V. BRANCHFELD AND ASSO